

REFERENCE TITLE: property tax levy rollback

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

## **SCR 1037**

Introduced by  
Senator Gould

### A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IX, SECTION 19, CONSTITUTION OF ARIZONA; RELATING TO LEVY ROLLBACK; LIMITATIONS ON CHANGES IN PROPERTY TAX LEVIES; EXCEPTIONS; VOTER APPROVAL; PRIVATE RIGHT OF ACTION; DEFINITIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of  
2 Representatives concurring:

3   1. Short title

4   This measure shall be known as the "Arizona Tax Revolt - Property Tax  
5 Levy Rollback".

6   2. Purpose

7   The Arizona Tax Revolt - Property Tax Levy Rollback constitutional  
8 amendment will reduce, limit and control the property tax burden on Arizona  
9 taxpayers. Among other things, this constitutional amendment rolls back  
10 property tax levies, and it protects taxpayers from future property tax  
11 increases caused by levy increases which, without voter approval, cannot  
12 exceed two percent plus the tax attributable to and paid for by new growth.

13   3. Article IX, section 19, Constitution of Arizona, is proposed to be  
14 amended as follows if approved by the voters and on proclamation of the  
15 Governor:

16           19. LEVY ROLLBACK: limitation on CHANGES annual  
17           increases in PROPERTY local ad valorem tax  
18           levies; exceptions; VOTER APPROVAL; PRIVATE  
19           RIGHT OF ACTION; DEFINITIONS

20   Section 19. (1) The maximum amount of ad valorem taxes  
21 levied by any TAXING ENTITY ~~county, city, town or community~~  
22 ~~college district~~ shall not exceed an amount two per cent greater  
23 than the amount levied in the preceding year. THIS LEVY  
24 LIMITATION SHALL BE INCREASED EACH YEAR TO THE MAXIMUM  
25 PERMISSIBLE LIMIT, WHETHER OR NOT THE TAXING ENTITY ACTUALLY  
26 LEVIES AD VALOREM TAXES TO SUCH AMOUNTS, EXCEPT THAT THE TAXING  
27 ENTITY'S LEVY IN THE YEAR 2011 SHALL BE LIMITED PURSUANT TO  
28 EITHER PARAGRAPH (a) OR (b) OF THIS SUBSECTION, IF APPLICABLE.  
29 IF NEITHER PARAGRAPH (a) NOR (b) OF THIS SUBSECTION APPLY, THE  
30 TAXING ENTITY'S LEVY IN THE YEAR 2011 SHALL NOT EXCEED THE  
31 ACTUAL TAX LEVY OF THE TAXING ENTITY IN 2005 OR THE TAXING  
32 ENTITY'S FIRST LEVY IF SUCH OCCURRED AFTER 2005. THE 2011 LEVY  
33 LIMITATION PRESCRIBED BY THIS SUBSECTION SHALL BE FURTHER  
34 ADJUSTED, UNLESS ALREADY INCLUDED IN SUCH AMOUNT, PURSUANT TO  
35 SUBSECTION (5), AND BY THE AMOUNT PRESCRIBED BY SUBSECTION (4),  
36 AS APPLICABLE.

37   (a) THE TAXING ENTITY'S 2011 LEVY SHALL NOT EXCEED THE  
38 AVERAGE OF THE ACTUAL TAX LEVIES OF THE TAXING ENTITY IN 2005,  
39 2006, 2007 AND 2008, EXCLUDING ANY YEAR OR YEARS IN WHICH THERE  
40 WAS NO LEVY. THIS PARAGRAPH SHALL NOT APPLY IF PARAGRAPH (b) OF  
41 THIS SUBSECTION APPLIES, OR IF THE TAXING ENTITY WITHOUT THE  
42 APPROVAL OF AT LEAST A TWO-THIRDS VOTE OF THE TAXING ENTITY'S  
43 QUALIFIED ELECTORS VOTING ON THE ISSUE IN A NOVEMBER ELECTION IN  
44 THE MANNER PRESCRIBED BY LAW, ENGAGED IN EITHER ITEM (i) OF THIS

1 PARAGRAPH IN 2010 OR BEGINNING ON AUGUST 15, 2009, EITHER ITEMS  
2 (ii) OR (iii), OF THIS PARAGRAPH.

3 (i) LEVIED AD VALOREM TAXES THAT INCREASED BY MORE THAN  
4 TWO PER CENT, PLUS ANY LEVY ADJUSTMENT COMPUTED IN 2008 PURSUANT  
5 TO THE PROVISIONS OF SUBSECTION (5).

6 (ii) LEVIED, OR ENACTED A NON-AD VALOREM TAX OR  
7 ASSESSMENT ON REAL PROPERTY GREATER THAN SUCH AMOUNT WHICH MAY  
8 HAVE BEEN LEVIED, OR ENACTED IN THE PRIOR YEAR.

9 (iii) RECEIVED APPROVAL OF ANY NEW INDEBTEDNESS THAT IS  
10 OR WILL BE SECURED BY REAL PROPERTY TAXES.

11 (b) IF, BEGINNING ON AUGUST 15, 2009:

12 (i) TWO OR MORE TAXING ENTITIES MERGE OR OTHERWISE  
13 COMBINE INTO A SINGLE TAXING ENTITY, THE LEVY OF THE SUCCESSOR  
14 TAXING ENTITY IN 2011 SHALL NOT EXCEED AN AMOUNT EQUAL TO THE  
15 SUM OF THE LEVIES OF THE PREDECESSOR TAXING ENTITIES IN 2005, OR  
16 THE PREDECESSOR TAXING ENTITY'S FIRST LEVY IF LEVIED SUBSEQUENT  
17 TO 2005.

18 (ii) A TAXING ENTITY DIVIDES, SPLITS OR OTHERWISE CEDES  
19 ITS TAXING AUTHORITY TO ONE OR MORE TAXING ENTITIES, THE SUM OF  
20 THE 2011 LEVIES OF EACH SUCCESSOR TAXING ENTITY SHALL NOT EXCEED  
21 THE AMOUNT OF THE PREDECESSOR TAXING ENTITY'S LEVY IN 2005 OR  
22 ITS FIRST LEVY IF LEVIED SUBSEQUENT TO 2005, AND SUCH AMOUNT  
23 SHALL BE APPORTIONED BETWEEN THE SUCCESSOR TAXING ENTITIES IN  
24 THE MANNER PRESCRIBED BY LAW.

25 IF BOTH ITEMS (i) AND (ii) APPLY, THE SUM OF THE 2011 LEVY  
26 OF EACH SUCCESSOR TAXING ENTITY SHALL NOT EXCEED THE SUM OF EACH  
27 ORIGINAL PREDECESSOR TAXING ENTITY'S 2005 LEVY OR, AS  
28 APPLICABLE, A PREDECESSOR TAXING ENTITIES FIRST LEVY IF LEVIED  
29 SUBSEQUENT TO 2005, AND THE 2011 LEVY OF EACH SUCCESSOR TAXING  
30 ENTITY SHALL BE COMPUTED IN THE MANNER PRESCRIBED BY LAW  
31 NOTWITHSTANDING THE 2011 LEVY LIMITATION PRESCRIBED BY THE  
32 PROVISIONS OF ITEMS (i) AND (ii) OF THIS PARAGRAPH.

33 (2) SUBJECT TO THE PROVISIONS OF SUBSECTION (4), THE  
34 FOLLOWING ARE THE ONLY ITEMS THAT the limitation prescribed by  
35 subsection (1) does not apply to:

36 (a) Ad valorem taxes or special assessments levied to pay  
37 the principal of and the interest and redemption charges on  
38 bonded indebtedness or other lawful long-term obligations issued  
39 or incurred for a specific purpose.

40 (b) Ad valorem taxes or assessments levied by or for  
41 property improvement assessment districts, improvement districts  
42 and other special purpose districts other than counties, cities,  
43 towns and community college districts.

44 (c) Ad valorem taxes levied by counties for support of  
45 school districts.

(3) This section applies to all tax years beginning after December 31, ~~1981~~ 2010, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

(4) The limitation prescribed by subsection (1) shall be increased each year to the maximum permissible limit, whether or not the political subdivision actually levies ad valorem taxes to such amounts, except that beginning in 2007 the limitation prescribed by subsection (1) shall be computed from the actual tax levy of the county, city, town or community college district in 2005.

(45) BEGINNING ON AND SUBSEQUENT TO NOVEMBER 2, 2010, THE FOLLOWING VOTER APPROVAL REQUIREMENTS SHALL APPLY. ~~The voters, in the manner prescribed by law, may elect to allow ad valorem taxation in excess of the limitation prescribed by this section.~~

(a) A TWO-THIRDS VOTE OF THE QUALIFIED ELECTORS OF A TAXING ENTITY VOTING ON THE ISSUE IN A NOVEMBER ELECTION, IN THE MANNER PRESCRIBED BY LAW, IS REQUIRED TO APPROVE:

(i) ANY TAX LEVIED OR ENACTED BASED ON REAL PROPERTY IN ADDITION TO OR IN EXCESS OF ANY SUCH AMOUNT IN THE PRIOR YEAR, EXCEPT FOR ANY AMOUNT AUTHORIZED BY THE PROVISIONS OF SUBSECTIONS (1), (5) AND (6).

(ii) THE REAL PROPERTY TAX LEVY OF ANY TAXING ENTITY THAT DID NOT ACTUALLY LEVY SUCH A TAX IN THE PRECEDING YEAR.

(iii) EACH ITEM SET FORTH IN SUBSECTION (2), UNLESS ANY SUCH ITEM WAS APPROVED PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION. ONCE APPROVED THE LEVYING OF SUCH AMOUNTS DO NOT REQUIRE SUBSEQUENT VOTER APPROVAL.

(b) TEN PER CENT OF THE QUALIFIED ELECTORS OF A TAXING ENTITY, IN A MANNER PRESCRIBED BY LAW, MAY PETITION THE GOVERNING BODY OF THE TAXING ENTITY TO REDUCE THE TAXING ENTITY'S LEVY LIMITATION BY A SPECIFIED AMOUNT NOT TO EXCEED TWENTY PER CENT OF ITS PREVIOUS LEVY. THE PETITIONERS SHALL HAVE AT LEAST EIGHTEEN MONTHS BUT NOT MORE THAN TWENTY-FOUR MONTHS TO COLLECT AND FILE THE PETITION SIGNATURES. IF, WITHIN TWO MONTHS AFTER SUBMITTING THE REQUIRED NUMBER OF PETITION SIGNATURES, THE GOVERNING BODY FAILS TO REDUCE THE LEVY LIMITATION BY THE PETITIONED AMOUNT, THE GOVERNING BODY SHALL CAUSE THE PETITION TO BE SUBMITTED TO THE VOTERS AT THE NEXT NOVEMBER ELECTION OCCURRING AT LEAST FOUR MONTHS AFTER THE PETITION SIGNATURES WERE SUBMITTED. THE TAXING ENTITY'S LEVY LIMITATION SHALL BE REDUCED BY THE AMOUNT SPECIFIED IN THE PETITION UPON THE AFFIRMATIVE VOTE OF A MAJORITY OF VOTERS VOTING ON THE ISSUE IN THE MANNER PRESCRIBED BY THIS SUBSECTION.

1 ANY REDUCTION IN THE TAXING ENTITY'S LEVY LIMITATION PURSUANT TO  
2 THIS SECTION SHALL:

3 (i) NOT EXCEED TWENTY PER CENT PER YEAR WHEN TWO OR MORE  
4 SUCH PETITIONS ARE APPROVED BY THE VOTERS IN A SINGLE YEAR.

5 (ii) BE APPLIED TO THE TAXING ENTITY'S LEVY FOR THE YEAR  
6 FOLLOWING THE YEAR IN WHICH THE REDUCTION WAS APPROVED.

7 (c) ELECTIONS HELD PURSUANT TO THIS SECTION SHALL BE  
8 ADMINISTERED BY THE COUNTY IN WHICH THE GEOGRAPHIC AREA OF THE  
9 TAXING ENTITY IS LOCATED AND SHALL BE HELD AT A NOVEMBER  
10 ELECTION. IF THE TAXING ENTITY'S GEOGRAPHIC AREA IS LOCATED  
11 WITHIN TWO OR MORE COUNTIES, ELECTIONS SHALL BE ADMINISTERED  
12 SEPARATELY IN EACH COUNTY ON THE SAME DATE AND:

13 (i) A LEVY DECREASE SHALL BE APPROVED BY A MAJORITY VOTE  
14 OF THE QUALIFIED ELECTORS OF THE TAXING ENTITY VOTING ON THE  
15 ISSUE.

16 (ii) A LEVY INCREASE SHALL BE APPROVED BY A TWO-THIRDS  
17 VOTE OF THE QUALIFIED ELECTORS OF THE TAXING ENTITY VOTING ON  
18 THE ISSUE, PROVIDED THAT THE QUALIFIED ELECTORS OF EACH OF THE  
19 COUNTIES COMPRISING THE TAXING ENTITY SEPARATELY APPROVE OF THE  
20 INCREASE, EACH BY A TWO-THIRDS VOTE.

21 (d) ALL COSTS OF ELECTIONS HELD PURSUANT TO THIS SECTION  
22 SHALL BE CHARGED AGAINST THE FUNDS OF THE TAXING ENTITY, EXCEPT  
23 THAT THE COSTS OF AN ELECTION FOR A TAXING ENTITY'S INITIAL LEVY  
24 SHALL BE CHARGED AGAINST THE FUNDS OF THE RESPECTIVE COUNTY OR  
25 COUNTIES ADMINISTERING EACH SEPARATE ELECTION IN WHICH THE  
26 TAXING ENTITY IS GEOGRAPHICALLY LOCATED. THE COSTS OF THE  
27 ELECTION SHALL BE CHARGED AGAINST THE STATE IF THE TAXING ENTITY  
28 IS THE STATE OR THE TAXING ENTITY'S GEOGRAPHIC AREA ENCOMPASSES  
29 THE ENTIRE STATE.

30 (e) IF THERE ARE NO QUALIFIED ELECTORS RESIDING WITHIN  
31 THE GEOGRAPHIC BOUNDARY OF A TAXING ENTITY, THE WRITTEN CONSENT  
32 OF THE FIRST PERSON OR ENTITY LISTED ON THE TITLE, OR OTHER  
33 ENTITY OR AUTHORIZED AGENT REPRESENTING ALL OWNERS OF A GIVEN  
34 PARCEL, SUCH THAT THE OWNERS OF AT LEAST TWO-THIRDS OF THE  
35 TAXING ENTITY'S GEOGRAPHIC AREA ARE IN FAVOR OF APPROVAL IN LIEU  
36 OF AN ELECTION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION.

37 (56-) The limitation prescribed by subsection (1) ~~of this~~  
38 ~~section~~ shall be increased by the amount of ad valorem taxes  
39 levied against property not subject to taxation in the prior  
40 year and shall be decreased by the amount of ad valorem taxes  
41 levied against property subject to taxation in the prior year  
42 and not subject to taxation in the current year. Such amounts of  
43 ad valorem taxes shall be computed using the rate applied to  
44 property not subject to this subsection.

1                         (6) BEGINNING IN 2012, THE LEVY LIMITATION PRESCRIBED BY  
2 SUBSECTION (1):

3                         (a) AS ADJUSTED BY THE PROVISIONS OF SUBSECTIONS (4), (5)  
4 AND (8), IF APPLICABLE, AND USED IN COMPUTING SUBSEQUENT LEVIES,  
5 MAY BE DECREASED WITHOUT LIMIT BY A MAJORITY VOTE OF THE  
6 MEMBERSHIP OF THE TAXING ENTITY'S GOVERNING BODY.

7                         (b) SHALL BE ADJUSTED ANNUALLY BY A PERCENTAGE EQUAL IN  
8 BOTH SIGN AND MAGNITUDE TO ANY CHANGE IN THE PHOENIX-MESA  
9 CONSUMER PRICE INDEX (CPI-U) COMPUTED ON ALL ITEMS AS PUBLISHED  
10 BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR  
11 STATISTICS, OR ITS SUCCESSOR AGENCY, WHICH MOST ACCURATELY  
12 REFLECTS INFLATION AND DEFLATION IN THE PHOENIX AREA COMPUTED AS  
13 THE MOST RECENT ANNUAL PERCENTAGE CHANGE USING EITHER THE ANNUAL  
14 TO ANNUAL OR FIRST HALF TO FIRST HALF DATA, EXCEPT THAT ANY SUCH  
15 INCREASE SHALL NOT EXCEED THE TWO PER CENT LIMITATION PRESCRIBED  
16 BY SUBSECTION (1). IF SUCH AN INDEX IS NO LONGER AVAILABLE, THE  
17 LEGISLATURE SHALL SELECT A SIMILAR INDEX APPLICABLE TO ARIZONA.

18                         (7) The legislature shall provide by law for the  
19 implementation of this section IN A TIMELY MANNER.

20                         (8) PUNITIVE MEASURES FOR NONCOMPLIANCE; CIVIL ACTION.

21                         (a) ANY TAXING ENTITY THAT FAILS TO COMPLY WITH THE  
22 PROVISIONS OF THIS SECTION SHALL:

23                         (i) AT THE PARCEL OWNER'S OPTION AND IN THE MANNER  
24 PROVIDED FOR BY LAW, REFUND OR CREDIT THE OVERPAYMENT TO THE  
25 PARCEL OWNER, AT SIXTEEN PER CENT SIMPLE INTEREST FROM THE DATE  
26 IN EACH YEAR THAT THE FIRST INSTALLMENT IN ERROR WAS DUE.

27                         (ii) HAVE OR CAUSE THE LEVY LIMITATION PRESCRIBED BY THIS  
28 SECTION REDUCED TO THE MAXIMUM PERMISSIBLE AMOUNT.

29                         (b) ANY PERSON SHALL HAVE STANDING TO BRING AN ACTION IN  
30 THE SUPERIOR COURT TO ENFORCE THE PROVISIONS OF THIS SECTION.  
31 THE COURT MAY AWARD COSTS AND REASONABLE ATTORNEYS' FEES TO A  
32 PREVAILING PLAINTIFF. AT THE OPTION OF THE PLAINTIFF, THE  
33 ACTION MAY BE BROUGHT IN THE SUPERIOR COURT OF THE COUNTY THAT  
34 GEOGRAPHICALLY CONTAINS ANY PART OF THE CHALLENGED TAXING ENTITY  
35 OR IN THE SUPERIOR COURT OF MARICOPA COUNTY.

36                         (9) DEFINITIONS. FOR PURPOSES OF THIS SECTION:

37                         (a) "NOVEMBER ELECTION" MEANS AN ELECTION HELD ON THE  
38 FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER.

39                         (b) "ORIGINAL PREDECESSOR TAXING ENTITY" MEANS A TAXING  
40 ENTITY THAT EXISTED AS OF AUGUST 15, 2009, OR WAS INITIALLY  
41 FORMED THEREAFTER AND NOT THE RESULT OF A CHANGE OF STATUS AS  
42 DEFINED BY SUBSECTION (1)(b)(i) OR (1)(b)(ii).

1                   (c~~b~~) "TAXING ENTITY" MEANS THE STATE OR ANY POLITICAL  
2 SUBDIVISION OF THE STATE, INCLUDING WITHOUT LIMITATION ANY  
3 GOVERNMENTAL BODY OR ENTITY AUTHORIZED TO LEVY A TAX,  
4 ASSESSMENT, OR SPECIAL ASSESSMENT, ON REAL PROPERTY.

5                   (10) THE PROVISIONS OF THIS SECTION SHALL BE LIBERALLY  
6 CONSTRUED AND SHALL APPLY NOTWITHSTANDING ARTICLE IX SECTIONS 8  
7 AND 23 OF THIS CONSTITUTION.

8                  4. Severability

9                  If any provision of this amendment or its application to any person or  
10 circumstance is held invalid, the invalidity shall not affect other  
11 provisions or applications of the amendment that can be given effect without  
12 the invalid provision or application, and to this end the provisions of this  
13 amendment are severable.

14                 5. Legislative authority

15                 Subject to the provisions of this amendment if adopted, the Legislature  
16 or any other taxing entity so empowered may enact any measure designed to  
17 further the purpose of this amendment.

18                 6. Submission to voters

19                 The Secretary of State shall submit this proposition to the voters at  
20 the next general election as provided by Article XXI, of the Arizona  
21 Constitution.